

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

MIESHIA MARIE JACKSON, et al.,

Plaintiffs,

v.

FASTENAL COMPANY,

Defendant.

Case No. 1:20-cv-00345-JLT-SAB

ORDER RE: STIPULATION TO MODIFY  
THE MAGISTRATE'S FINDINGS AND  
RECOMMENDATIONS

(ECF No. 35)

Plaintiff Mieshia Marie Jackson brings this action on behalf of herself and others similarly situated against Defendant Fastenal Company, alleging various wage and hour violations under California state law. (ECF No. 1-1.) On May 31, 2022, Plaintiffs filed an unopposed motion for attorneys' fees and costs, followed by a motion for final approval of class action settlement on September 9, 2022. (ECF Nos. 26, 27.) Following the October 13, 2022 hearing on the motions (see ECF No. 28), the Court issued findings and recommendations to partially-grant the motions on October 19, 2022 (ECF No. 29). More specifically, the Court recommended the class action settlement be approved but with reductions to the attorneys' fee requests. (ECF No. 29 at 34–35.) The deadline to file objections to the findings and recommendations was November 2, 2022. (See id. at 36.) On November 1, 2022, Plaintiffs filed objections to the findings and recommendations, arguing that the attorneys' fees were reduced in error. (ECF No. 33.) The matter has been submitted and is currently pending before the District Judge.

Currently before this Court is the parties' instant joint stipulation, filed May 11, 2023, and titled, "Joint Stipulation to Modify the Magistrate's Findings and Recommendations

1 Recommending Granting in Part Final Approval of Class Action Settlement Nunc Pro Tunc and  
2 Plaintiff's Agreement to Withdraw Appeal to the District Court Judge if the Magistrate Signs this  
3 Compromise Stipulation and Order." (ECF No. 35 (all caps removed).)

4 As to this stipulation, because Plaintiffs' motions for final approval and attorneys' fees  
5 are fully briefed and submitted, with findings and recommendations pending before the District  
6 Judge since November 2022, the instant stipulation, filed six months after the deadline to file  
7 objections to the findings and recommendations, is untimely. The Court notes the parties appear  
8 to acknowledge the untimeliness of the filing themselves, referring to the stip as "nunc pro tunc."  
9 More importantly, however, because the matter is now before the District Judge for final  
10 approval and consideration, it would be inappropriate for this Court to consider and rule on the  
11 instant stipulation, and to potentially alter its findings and recommendations, which are likely  
12 already being considered by the District Judge. Furthermore, and unfortunately, given the  
13 judicial emergency the Eastern District of California continues to experience, see Lawrence J.  
14 O'Neill, An Important Letter to Congress from the Judges of the Eastern District of California  
15 Regarding Our Caseload Crisis, United States District Court, Eastern District of California (Jun.  
16 19, 2018), [http://www.caed.uscourts.gov/caednew/assets/File/](http://www.caed.uscourts.gov/caednew/assets/File/Judgeship%20Letter%20June%202018.pdf)  
17 [Judgeship%20Letter%20June%202018.pdf](http://www.caed.uscourts.gov/caednew/assets/File/Judgeship%20Letter%20June%202018.pdf), the Court cannot provide a timeframe under which  
18 civil matters presently before district judges in this District, such as the instant motion for final  
19 approval, may be finally adjudicated.

20 Nonetheless, the Court is not unsympathetic to the parties' concerns about expediently  
21 providing the settlement class members the monetary relief they need; indeed, the Court notes  
22 the parties' stipulation appears meritorious. To this point, the Court reminds the parties that they  
23 may yet elect to consent to Magistrate Judge jurisdiction as to the instant matter or the case in its  
24 entirety. If the parties so choose to consent to magistrate judge jurisdiction, this Court will  
25 expediently issue a final ruling on the parties' pending motions for final approval and attorneys'  
26 fees, while also taking the instant stipulation under consideration. Additionally, one of our  
27 district judges has been nominated to the Ninth Circuit and if that nomination goes through we  
28 will be down to one district judge. Criminal matters must take priority due to Constitutional

1 requirements.

2 Accordingly, IT IS HEREBY ORDERED that the parties' joint stipulation seeking to  
3 modify the Magistrate's findings and recommendations and other relief (ECF No. 35) is hereby  
4 DEFERRED to the District Judge for further consideration in connection with the parties'  
5 motion for final approval, motion for attorneys' fees, and original objections to the findings and  
6 recommendations—all of which remain pending before the District Judge at this time. However,  
7 if the parties elect to consent to Magistrate Judge jurisdiction, this Court shall forthwith  
8 adjudicate the parties' pending final approval motions, incorporating its consideration of the  
9 parties' May 11, 2023 stipulated request into any final order.

10 IT IS SO ORDERED.

11 Dated: May 12, 2023

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14 UNITED STATES MAGISTRATE JUDGE  
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